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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/806,280

03/23/2004

Philip Feldman

2217.0007CIP

1846

27896

7590

06/16/2006

EDELL, SHAPIRO & FINNAN, LLC  
1901 RESEARCH BOULEVARD  
SUITE 400  
ROCKVILLE, MD 20850

EXAMINER

NGUYEN, KIM T

ART UNIT

PAPER NUMBER

3713

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/806,280

Applicant(s)

FELDMAN ET AL.

Examiner

Kim T. Nguyen

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 April 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 7-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/3/06</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Examiner acknowledges receipt of the amendment on 4/3/06. According to the amendment, claim 6 has been canceled, and claims 1-5 and 7-43 are pending in the application.

#### ***Claim Objections***

1. Claims 1 and 23 are objected to because of the following informalities:

In claim 1, line 12; and claim 23, line 5, the claimed limitation "a user" should be corrected to "the user".

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-5 and 7-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawabata et al (US 6,514,145) in view of Terutaka (JP 11-309270).**

Claim 1: Kawabata discloses a support structure for enabling interaction with a gaming application. The support structure comprises a base 2 (Fig. 1) in the form of platform to directly support a user thereon; a game controller 5 (Fig. 1) includes a

plurality of input devices 6 (Fig. 1); a rod (e.g. column) 4 (Fig. 1) secured to the base includes dimensions sufficient to support the game controller above the base and in a position enabling the user to operate the game controller in a standing position (col. 4, lines 58-63; and col. 5, lines 49-50); and a body support on the base to support the user lower body portion (Fig. 5). Kawabata does not explicitly disclose attaching the game controller to an upper portion of the rod. However, Terutaka discloses attaching the game controller to an upper portion of the rod (Fig. 1). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to attach the game controller of Kawabata to an upper portion of the rod as taught by Terutaka in order to facilitate operation of the game controller.

Claim 2: including a gripping surface to a base for accommodating user feet would have been well known to a person of ordinary skill in the art at the time the invention was made.

Claims 3-5: Kawabata discloses including a dimension adjustment mechanism to adjust dimension of the rod and a position of the game controller (col. 7, lines 51-55). Further, using pivot mechanism to adjust orientation of the a device such as game controller would have been well known to a person of ordinary skill in the art at the time the invention was made.

Claim 7: Kawabata discloses including a post secured to the base to support the user lower body portion and a support member secured to the post (Fig. 5).

Claims 8-10: adjusting a support member (e.g. a chair) to a higher or lower position using a dimension adjustment mechanism for adjusting the position of a

chair would have been well known to a person of ordinary skill in the art at the time the invention was made.

Claims 11-13: Terutaka discloses an isometric exercise, including a sensor in the rod to measure force and including a processor for receiving and process data corresponding to the applied force (paragraphs 0064-0065, 0085 and 0102).

Claim 14: including a display in a game controller would have been well known to a person of ordinary skill in the art at the time the invention was made.

Claims 15-17: Terutaka discloses determining an amount of work, outputting information relating to the amount of work, and adjusting the force applied by the user (paragraphs 0023, 0018-0019, 0039, 0050 and 0102).

Claims 18-19: including a handle in a game controller for receiving force from a user and manipulating input device to effect isokinetic or isotonic exercise would have been old and well known to a person of ordinary skill in the art.

Claims 20-21: refer to discussion in claims 1 and 3 above. Further, Kawabata discloses attaching the rod to a platform 2 (Fig. 1). Further, attaching the rod to a wall, ceiling, floor, or door would have been both well-known and obvious design choice.

Claims 22-43: refer to discussion in claims 1-21 above.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-5 and 7-43 have been considered but are moot in view of the new ground(s) of rejection.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any response to this final action should be mailed to:

Box AF

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to:

(571) 273-8300, (for formal communications; please mark  
"EXPEDITED PROCEDURE").

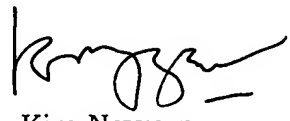
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is (571) 272-4441. The examiner can normally be reached on Monday-Thursday from 8:30AM to 5:00PM ET.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai, can be reached on (571) 272-7147. The central official fax number is (571) 273-8300.

kn  
Date: June 7, 2006



Kim Nguyen  
Primary Examiner  
Art Unit 3713